

1 MICHAEL J. O'TOOLE (SBN 97779)
2 City Attorney
3 RANDOLPH S. HOM (SBN 152833)
4 Assistant City Attorney
5 CITY OF HAYWARD
777 "B" Street
Hayward, California 94541
Telephone: (510) 583-4450
Facsimile: (510) 583-3660

6 Attorneys for Defendants City of Hayward,
Lloyd Lowe, and Jason Corsolini

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 MARIA JOYA, individually, and as) Case No.: C 07 -04739 (SI)
11 Administrator of the Estate of NASIR)
12 SOLIS,) DEFENDANTS' REQUEST FOR JUDICIAL
13) NOTICE; MEMORANDUM
14 -vs-) OF POINTS AND AUTHORITIES;
15 CITY OF HAYWARD, et al.,) DECLARATION OF RANDOLPH S. HOM
16) Date: N/A
17 Defendants.) Time: N/A
) Crtrm.:N/A

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that as part of defendants' opposition to plaintiff's administrative motion to determine whether cases should be related, defendants request that this Court take judicial notice of documents already contained in the Court file for the within action and for Saleh Ali v. City of Hayward, et al., United States District Court Case No. C 07-04718 (CRB), including but not limited to the following:

- (1) Filing dates and text of the identical complaints in each action;
 - (2) Filing dates for the proof of service related to the complaint in each action including the text describing how service of process was accomplished;
 - (3) Filing dates of the answer in each action;

1 (4) Filing date for Declination to Proceed before Magistrate Judge in Ali;

2 (5) Joint Case Management Conference Statements in each action;

3 This request is made pursuant to Federal Rules of Evidence Code Section 201.

4 The request for judicial notice will be based upon this Notice, the Memorandum of
 5 Points and Authorities, the Declaration of Randolph S. Hom, the pleadings and records contained
 6 in the Court files, the defendants' opposition to the administrative motion to determine whether
 7 the cases should be related, filed and served concurrently with this notice, and with any other oral
 8 and documentary evidence presented to the Court at the time of hearing, if any.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. THE COURT MAY JUDICIALLY NOTICE COURT RECORDS WHICH ARE
 CAPABLE OF READY AND ACCURATE DETERMINATION**

11 Federal Rules of Evidence Section 201(b)(2) allows the court to judicially notice facts
 12 "capable of accurate and ready determination by resort to sources whose accuracy cannot
 13 reasonably be questioned." Clearly, the records contained within the respective Court files in Ali
 14 and Joya cannot be reasonably questioned. Moreover, the Court may take judicial notice of
 15 matters of public record outside the pleadings. MGIC Indemnity Corp. v. Weisman, 803 F.2d
 16 500, 504 (9th Cir. 1986) Pursuant to Federal Rules of Evidence Section 201, a Court may also
 17 take judicial notice of a city's official records, which includes pleadings and court documents
 18 relating to the Ali and Joya actions. Grassroots v. County of San Francisco, 1994 WL 589359
 19 (N.D. CA 1994); see also Poway Unified School District v. Superior Court, 62 Cal.App.4th
 20 1496 (1998).

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1 **II. CONCLUSION**

2 Based on the foregoing, defendants respectfully request that this Court take judicial
3 notice of the court files in Ali and Joya.

4 DATED: December 12, 2007

MICHAEL J. O'TOOLE, City Attorney

5 By /S/
6 Randolph S. Hom, Assistant City Attorney
Attorneys for Defendants

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